

**ANNUAL PROTECTION & ADVOCACY OF INDIVIDUAL RIGHTS (PAIR)**  
**PROGRAM PERFORMANCE REPORT**

**Fiscal Year 2005**

<b>DESIGNATED AGENCY IDENTIFICATION</b>		
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Name of PAIR Director/Coordinator: Colleen Miller, Esq.		
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<b>PART I. NON-CASE SERVICES:</b>		
<b>A. Individual Information and Referral Services (I&amp;R):</b>		
(Multiple responses are not permitted.)		
1. Individuals receiving I&R <u>within</u> PAIR's priority areas	630	
2. Individuals receiving I&R <u>outside</u> of PAIR's priority areas	1626	
3. Total individuals receiving I&R (lines A1+A2)	2266	
<b>B. Training Activities:</b>		
1. Number of trainings presented by PAIR staff	8	
2. Number of individuals who attended these trainings (approximate)	81	
Describe the trainings presented by PAIR staff. Be sure to include information about the topics covered, the training methods used, and the purpose for the training. Use separate sheets if necessary.		
<b>Date</b>	<b>Title of Presentation</b>	<b>Audience</b>
1/20/05	Outreach Clinic	Geriatric In-Patients
1/21/05	Outreach Clinic	Multiple Disability In-Patients
3/18/05	Orientation to VOPA and Access Authority	Hospital Administrative Staff
6/7/05	The Well Spouse	Caregiver Support Group
6/30-7/1/05	Changes to the ADA Accessibility Guidelines	Virginia Institute of Transportation Engineers
7/8/05	Intro to VOPA Services & Rights Enforcement	Staff, employees, family members, private providers, CSB employees, circuit court judge
7/27/05	Telecommuting by Employees	NDRN Fiscal Mgmt./HR
9/22/05	Solo & Small Practitioner Forum	Supreme Court of VA

<b>PLUS:</b> At least one CIL per month	"Office Hours": VOPA attorneys are available at Centers for Independent Living (CIL) for Information/Referral and Technical Assistance	CIL Members and Staff
<b>C. Information Disseminated to the Public:</b>		
1. Radio and TV appearances by PAIR staff		3
2. Newspaper/magazine/journal articles		4
3. PSAs/videos aired		1
4. Hits on the PAIR/P&A website		19733
5. Publications/booklets/brochures disseminated		243
6. Other ( <i>Virginia Lawyer</i> )		1

<b>PART II. INDIVIDUALS SERVED:</b>	
<b>A. Individuals Served:</b> (An individual is counted only once per fiscal year. Multiple counts are not permitted for lines A1 through A3.)	
1. Individuals who were still being served as of October 1 (carryover from prior fiscal year)	27
2. Additional individuals who were served during the year	39
3. Total individuals served (lines A1+A2)	66
4. Individuals who had more than one case file opened/closed during the fiscal year. (This number is not added to the total on line A3 above.) <i>*VOPA does not create more than 1 case file per individual; however at least 4 individuals had more than one problem area addressed.</i>	0*
<b>B. Individuals still served as of September 30</b> (carryover to next year) (May not exceed total on line II.A.3 above.)	
31	
<b>C. Problem Areas/Complaints of Individuals Served:</b>	
1. Architectural accessibility	23
2. Employment	3
3. Program access	1
4. Housing	1
5. Government benefits/services	10
6. Transportation	1
7. Education	7
8. Assistive technology	10
9. Voting	
10. Health care	18
11. Insurance	
12. Non-government services	1
13. Privacy rights	
14. Access to records	
15. Abuse	1
16. Neglect	8
17. Other	
<b>D. Reasons for Closing Individual's Case Files:</b>	
1. Issues resolved partially or completely in the individual's favor	26
2. Other representation found	
3. Individual withdrew complaint	4
4. Appeals were unsuccessful	
5. PAIR services not needed due to individual's death, relocation, etc.	1
6. PAIR withdrew from case	
7. PAIR unable to take case because of lack of resources	
8. Individual's case lacks legal merit	1
9. Other (3: Unresolved; no response from client)	3
<b>E. Intervention Strategies Used in Serving Individuals:</b> (List the <u>highest level</u> of intervention used by PAIR prior to closing each case file.)	

1. Technical assistance in self-advocacy	7
2. Short-term assistance	6
3. Investigation/monitoring	4
4. Negotiation	13
5. Mediation/alternative dispute resolution	1
6. Administrative hearings	2
7. Litigation (including class actions)	2
8. Systemic/policy activities	
<b>PART III. STATISTICAL INFORMATION ON INDIVIDUALS SERVED:</b>	
<b>A. Age of Individuals Served:</b> (as of October 1) (Multiple responses not permitted.)	
1. 0 - 4	
2. 5 - 22	6
3. 23 - 59	40
4. 60 - 64	2
5. 65 and over	13
6. Unknown	5
<b>B. Gender of Individuals Served:</b> (Multiple responses not permitted)	
1. Females	30
2. Males	36
<b>C. Race/Ethnicity of Individuals Served:</b> (Multiple responses permitted)	
1. White	44
2. Black or African American	18
3. American Indian or Alaska Native	
4. Asian	
5. Native Hawaiian or other Pacific Islander	
6. Hispanic or Latino	2
7. Race/ethnicity unknown	2
<b>D. Living Arrangements of Individuals Served:</b> (Multiple responses not permitted)	
1. Independent	32
2. Parental or other family home	12
3. Community residential home	2
4. Foster care	
5. Nursing home	8
6. Public institutional living arrangement	1
7. Private institutional living arrangement	1
8. Jail/prison/detention center	8
9. Homeless	
10. Other living arrangements	
11. Living arrangements not known	2
<b>E. Primary Disability of Individuals Served:</b> (Identify the individual's primary disability, namely the one directly related to the issues/complaints raised by the individual.)	
1. Blind/visual impairment	3
2. Deaf/hard of hearing	16

3. Deaf-blind	1
4. Orthopedic impairment	4
5. Mental illness	1
6. Substance abuse	
7. Mental retardation	
8. Learning disability	5
9. Neurological impairment	12
10. Respiratory impairment	2
11. Heart/other circulatory impairment	4
12. Muscular/skeletal impairment	10
13. Speech impairment	
14. AIDS/HIV	
15. Traumatic brain injury	
16. Other disability (6 other, 2 unknown)	8
<b>PART IV. SYSTEMIC ACTIVITIES AND LITIGATION:</b>	
<b>A. Systemic Activities:</b>	
1. Number of policies/practices changed as a result of non-litigation systemic activities	4
2. Number of individuals potentially impacted by policy changes	Approx. 216,500
Describe your systemic activities. Be sure to include information about the policies that were changed and how these changes benefit individuals with disabilities. Include case examples of how your systemic activities impacted individuals served. (Attach separate sheets if necessary.)	
<p>During the 2005 Virginia General Assembly Session, VOPA actively monitored the drafting of legislation revising oversight of assisted living facilities, and participated in final negotiations of the bill that was ultimately passed. We ensured that the Virginia Department of Social Services was aware of our desire to actively participate in the revision of the administrative regulations that will flow from that legislation. VDSS did include VOPA in the workgroup assembled to advise them on the development of the regulations. VOPA actively advocated for Assisted Living Facility residents to be involved in every aspect of their care planning. We and other advocates also encouraged VDSS not to weaken the incident reporting requirements.</p> <p>Out of that same legislation came a requirement for the Virginia Board of Nursing to develop administrative regulations for the registration/certification and training of medication aides in assisted living facilities. VOPA attends and actively participates in the Task Force meetings convened by the Board of Nursing. Thus far, VOPA has advocated for the resident to be included in every aspect of their care planning including every aspect of medication administration when possible based on the individual's capacity. VOPA also advocated for accountability and clear expectations regarding documentation. We provided written recommendations to the Task Force and Board of Nursing re-iterating these concerns. We also encouraged them to try to find a balance between the requirements of a "medical model" with the need to maintain a non-institutional setting.</p>	

<p>VOPA's role during the General Assembly, and throughout the year, is to be available to educate policy makers about the implications of proposed legislation for people with disabilities in the Commonwealth of Virginia. In the FY05 General Assembly session, VOPA monitored over 14 bills from the House of Representatives and Senate of Virginia. We posted a notice on our website identifying these bills and encouraged the public to use the General Assembly's website about other bills. In addition, we received communication from the public about other bills that were of importance to the disability communities in Virginia. These recommendations were explored and some were added to the VOPA list to monitor and track.</p>	
<p>VOPA determined that the Department of Rehabilitation Services (DRS) did not provide adequate transition services for some children with disabilities who were eligible for those services. VOPA served DRS with a Notice of Potential Litigation on this issue. A settlement agreement was reached that will ensure that transition age children who are eligible for services will receive access to DRS transition services. Previously, DRS had refused to provide transition services to some children prior to their final year of high school, based on their age or year in school VOPA argued that this violated federal law. Since the settlement agreement, VOPA received a complaint alleging DRS refused to provide transition planning for a child before his last semester of high school. VOPA complained to DRS which immediately resolved the issue.</p>	
<p>VOPA attends the quarterly meetings of the Statewide Special Education Advisory Committee (SSEAC). Although we are not a formal member of this committee, through our monitoring of the activity we learned of the Department of Education's intent to distribute Seclusion and Restraint Guidelines for local school divisions. VOPA provided the SSEAC with written comments on these guidelines, and they in turn encouraged the DOE to revise the guidelines. In addition the SSEAC voted to require that all schools develop seclusion and restraint policies.</p>	
<p>VOPA's historical settlement in FY03 with the Department of Veterans Affairs spurred the protection and advocacy systems' national association to advocate with the Department of Veterans Affairs to use the settlement agreement terms to forge a nationwide policy for all veterans' hospitals. In September, 2005, the Department of Veterans Affairs disseminated a revised policy about patient advocacy that included allowances for external advocates; this national policy is a result of VOPA's FY03 settlement agreement. The major points of the settlement agreement/policy include: allowing quarterly training for patients, annual training for staff, including protection and advocacy information in their admission packets, and the posting of the protection and advocacy system's contact information in patient areas.</p> <p>For Virginia, this opens the door to other Department of Veterans Affairs facilities for the P&amp;A. This is particularly significant as these other facilities provide longer term care and rehabilitation services for disabled veterans; where the care at McGuire is more of an acute nature. Although this was done using other funding, it is of particular significance to PAIR eligible individuals as it will apply to individuals with all types of disabilities.</p>	
<p><b>B. Litigation/Class Actions:</b></p>	
<p>1. Number of individuals potentially impacted by changes as a result of PAIR's litigation/class action efforts</p>	<p>1,000,000+</p>
<p>2. Number of individuals named in class actions</p>	<p>0</p>
<p>Describe your litigation/class action activities. Explain how individuals with disabilities benefited from your litigation activities. Be sure to include case examples that demonstrate the impact of your litigation. (Attach separate sheets if necessary.)</p>	

In 1999, at the P&A's request, the Lottery surveyed all of its retailers and found the vast majority to be out of compliance. Despite VOPA's request, the Lottery has not required its retailers to come into compliance with the ADA or the VDA. VOPA filed a lawsuit against the Virginia Lottery alleging that it violates the rights of people with disabilities when it contracts with inaccessible businesses to sell Lottery products. The Lottery has filed a Motion to Dismiss which was argued after the end of the fiscal year. This effort impacts every Virginian with a disability who attempts to access a retail entity that sells lottery tickets.

## **PART V. PAIR'S PRIORITIES AND OBJECTIVES:**

### **A. Priorities and Objectives for the Fiscal Year Covered by this Report:**

**Goal: People with Disabilities are Free from Abuse and Neglect**

**Focus Area: Abuse and Neglect in Community Settings**

#### **Needs/Issues/Barriers Addressed**

Individuals with disabilities living in licensed residential settings in the community are being subjected to abuse and neglect.

#### **Indicators for Success Include the Completion of the Following Objectives:**

Review all reports submitted by Adult Protective Services alleging abuse or neglect in community settings.

Increase Adult Protective Services referrals to VOPA of allegations of abuse or neglect.

Investigate 7 instances of alleged abuse and neglect in licensed community residential settings, particularly concerning inappropriate medication, safety, and inappropriate use of seclusion or restraint, and remediate identified violations.

Monitor 10 assisted living facilities to evaluate medication practices, staff training, and employment of residents.

Inform policy makers of the need to eliminate abuse and neglect in community settings in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

Initiate discussions with relevant policy-makers to improve requirements for community providers to report abuse or neglect.

Represent the interests of persons with disabilities on the Public Guardianship Advisory Board of the Department for the Aging in an effort to promote alternatives to guardianship, consumer self-direction, and improved protections for persons with disabilities in substitute decision-making proceedings.

Inform policy-makers of the need for consumer self-direction and protection for persons with disabilities in substitute decision-making proceedings in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

**Collaborative Efforts:**

Virginia Department of Social Services

Local Departments of Social Services

Virginia Department of Aging

See above regarding systemic efforts related to assisted living facilities.

**Number of Cases Handled:** 5 with PAIR funding

**Case Summary:**

All Adult Protective Services' reports received were read and entered into a dedicated database

VOPA has successfully obtained increased APS reporting of alleged abuse or neglect of persons with disabilities by direct correspondence to 121 local APS offices, several on-site visits, meetings with senior APS personnel and completion of a draft protocol designed to facilitate increased reporting. Upon final approval of the protocol and agreement concerning electronic transfer of reports, VOPA anticipates receipt of approximately 3,000 reports per year, all of which will be reviewed and analyzed by computer programs currently in use for sophisticated analysis of critical incident reporting data submitted by the Department of Mental Health, Mental Retardation and Substance Abuse Services to VOPA.

VOPA worked on twenty-five (25) investigations and cases involving abuse or neglect of persons in community facilities. In one case, VOPA successfully pursued litigation against an assisted living facility that served persons with disabilities including persons served by VOPA pursuant to PAIR funding. VOPA's evidence included medical neglect of a patient who died, physical abuse, drug theft and hundreds of false, misleading or improper entries in residents' medication administration records. In the course of the litigation, the Court entered landmark rulings confirming the right to be free from abuse or neglect under State law, a right of action to enforce the right, and VOPA's authority and standing to file suit in its own name, on its own behalf and on behalf of victims. The Court entered final judgment enjoining ongoing abuse and neglect and directed compliance with a comprehensive settlement agreement that establishes clear standards of care; requires outside medical oversight; requires specific medication management, administration and inventory practices; guarantees VOPA's unfettered right of access and authority to monitor compliance; and establishes the Court's authority to punish violations as appropriate. VOPA conducts weekly, on-site monitoring to assure compliance with the Court's order.

In another case, VOPA investigated complaints of alleged abuse or neglect in a community based facility, and found evidence of serious deficiencies, including patients who were neglected and later died; hundreds of missing or improperly accounted for controlled substances; improperly wasted medications; incorrect medications, excessive dosages and/or inadequate dosages of medications; false and/or misleading entries in medication records; failure to follow doctor's orders; failure to treat serious infectious diseases; and failure to care for a patient's hygiene needs. The investigation was completed during the current reporting period and litigation was instituted thereafter and will be addressed in the next reporting period.



VOPA monitored nine (9) assisted living facilities, including weekly monitoring of one facility pursuant to court order.

VOPA actively participates on the Public Guardianship Advisory Board of the Virginia Department of the Aging. VOPA is a member of the Program and Planning Subcommittee which is focused on drafting administrative regulations, policies and procedures for the public guardianship providers.

**Goal: Children and Youth with Disabilities Receive an Appropriate Education**  
**Focus Area: Inappropriate Seclusion or Restraint use in Juvenile Facilities and Schools**

**Needs/Issues/Barriers Addressed**

This is a priority because VOPA has been advised that persons with disabilities were being inappropriately subjected to seclusion and restraints in juvenile facilities and schools. This was identified through a public comment process, with guidance by the Governing Board and with input from the VOPA Advisory Councils.

**Indicators for Success Include the Completion of the Following Objectives:**

Develop a fact sheet on resident rights in juvenile facilities, including the rights of juveniles who are court-ordered to facilities.

Monitor five (5) juvenile facilities to evaluate staff training and seclusion and restraint policies and make recommendations for improvements where required.

Identify two (2) schools that subject children with disabilities to in-school suspensions, "time-outs," and other restraints and do not provide those children with appropriate Positive Behavioral Supports and Interventions. Initiate litigation and/or other advocacy to change this practice.

**Collaborative Efforts:**

Virginia Department of Education  
Juvenile Facilities  
Public Schools

**Number of Cases Handled:** Not individual case level services

**Case Summary:**

A draft fact sheet regarding juvenile disability related rights has been developed. This work will be continued in the new fiscal year.

VOPA monitored eleven juvenile facilities (not all with PAIR funding).

VOPA has reviewed the practices of eight schools and is now investigating the way the Department of Education (DOE) regulates the use of seclusion and restraint. The Department of Education is required to publish guidelines for schools to use when

developing their own policies. To date, DOE has not done so. As a result, several schools that practice seclusion and restraint have no policy setting forth when those methods should be used or require any training for teachers or other personnel who use them. VOPA has identified seven schools in the Commonwealth that admit to restraining over 20 children in the past year but without a policy on when restraint should be used and without training to teachers on how to do it. By regulation, DOE requires private schools to adhere to the Human Rights Regulations of the Department of Mental Health, Mental Retardation and Substance Abuse Services, which set very stringent standards on when seclusion and restraint may be used. VOPA is formulating an advocacy strategy that will, hopefully, result in a collaborative relationship with DOE on this point but will require DOE to more thoroughly regulate public schools in this area. In addition, four schools received appropriate training on the use of seclusion and restraint.

**Goal: Children and Youth with Disabilities Receive an Appropriate Education**  
**Focus Area: Transition Services**

**Needs/Issues/Barriers Addressed**

Denial of or inappropriate transition services

This is a priority because VOPA determined that persons with disabilities rights to access to appropriate transition services were being violated. In addition, this was identified through a public comment process, with guidance by the Governing Board and with input from the VOPA Advisory Councils. The desired effect of addressing this priority is that more persons with disabilities will be able to appropriately access transition services.

**Indicators for Success Include the Completion of the Following Objectives:**

Represent five (5) children, including students at the Virginia Schools for the Deaf and Blind, who have been denied transition planning that promotes movement from school to post-school activities.

Identify whether local school districts are implementing transition plans developed in facilities operated by the Department of Juvenile Justice. If not, initiate litigation or other advocacy to remediate.

Determine whether other state agencies, including the Department for the Blind and Vision Impaired, and the Department of Education, are meeting their obligation to ensure that appropriate transition planning that promotes movement from school to post-school activities is done. If not, initiate litigation or other strategies to change this practice.

**Collaborative Efforts:**

Department of Education

Department of Juvenile Justice

Virginia Schools for the Deaf and Blind

**Number of Cases Handled:** 1 using PAIR funding

**Case Summary:**

VOPA monitored seven (7) juvenile facilities to evaluate staff training and transition planning.

VOPA discovered that the Department of Education and the Department of Juvenile Justice, which are required by statute to develop a plan to ensure that appropriate transition services take place, have not met their obligations. A task force has been formed to complete the plan. VOPA is monitoring the work of the task force and will provide comment and advocacy to ensure that the plan protects the rights of children with disabilities. Similarly, whenever VOPA is faced with a transition case that involves another State agency, VOPA investigates whether that agency is fulfilling its responsibilities to provide appropriate transition services.

VOPA determined that DRS did not provide adequate transition services to some children with disabilities who were eligible for those services. VOPA sent a Notice of Potential Litigation to DRS demanding that it provide the services it is obligated to provide. A settlement agreement was reached that will ensure that transition age children who are eligible for services will receive access to DRS transition services. Previously, DRS had refused to provide transition services to some children prior to their final year of high school, based on their age or year in school. VOPA argued that this violated federal law. Since the settlement agreement, VOPA received a complaint alleging DRS refused to provide transition planning for a child before his last semester of high school. VOPA complained to DRS which immediately resolved the issue..

**Goal: Children and Youth with Disabilities Receive an Appropriate Education**

**Focus Area: Technical Assistance to Private Bar, Legal Services Agencies, and Parent Advocacy Groups Regarding Changes in the Individuals with disabilities Education Act (IDEA)**

**Needs/Issues/Barriers Addressed**

These entities are critical resources for families of and children with disabilities attending school. They must be kept current with the most recent policy development in order to be able to provide effective advocacy.

**Indicators for Success Include the Completion of the Following Objectives:**

Represent the interests of persons with disabilities to the Statewide Special Education Advisory Committee to obtain maximum protection for children with disabilities after any changes to IDEA.

Develop a publication identifying the changes in the Individuals with Disabilities Education Act within 60 days of Congress amending IDEA.

Develop and give three (3) presentations concerning changes in IDEA within 60 days of the development of the above publication.

Represent the interests and early intervention needs of children with disabilities on the Virginia Interagency Coordinating Council (IDEA-Part C) and inform the Council of the implications for children of changes in IDEA.

**Collaborative Efforts:**

Statewide Special Education Advisory Committee  
Virginia Interagency Coordinating Council

**Number of Cases Handled:** Not individual case level services

**Case Summary:**

A draft publication was developed identifying the changes in IDEA; however, VOPA did not publish it as there were many other user-friendly resource documents being circulated. However, VOPA has been able to provide at least three (3) presentations about the changes.

VOPA attends the quarterly meetings of the Statewide Special Education Advisory Committee (SSEAC). Although we are not a formal member of this committee, through our monitoring of the activity we learned of the Department of Education's intent to distribute Seclusion and Restraint Guidelines for local school divisions. VOPA provided the SSEAC with written comments on these guidelines, and they in turn encouraged the DOE to revise the guidelines. In addition the SSEAC voted to require that all schools develop seclusion and restraint policies.

VOPA continues to participate in the Virginia Interagency Coordinating Council (VICC). Our participation reflects ensuring confidentiality protections and maximizing family involvement in the efforts of the local entities. The VICC is aware of the requirements of IDEA-Part C.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Inaccessible Commercial Locations under Contract with the State**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II and III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Through litigation or other advocacy, prevent the Virginia Lottery from contracting with entities that are not accessible to persons with disabilities.

Through litigation or other advocacy concerning the interstate "logo" program, prevent the Virginia Department of Transportation from contracting with entities that are not accessible to persons with disabilities.

**Collaborative Efforts:**

Virginia Lottery  
Virginia Department of Transportation

**Number of Cases Handled:** 3

**Case Summary:**

In 1999, at the P&A's request, the Lottery surveyed all of its retailers and found the vast majority to be out of compliance. Despite VOPA's request, the Lottery has not required its retailers to come into compliance with the ADA or the VDA. VOPA filed a lawsuit against the Virginia Lottery alleging that it violates the rights of people with disabilities when it contracts with inaccessible businesses to sell Lottery products. The Lottery has filed a Motion to Dismiss which was argued after the end of the fiscal year.

VDOT has a motorist service that is responsible for the big blue signs near exit ramps on selected interstate and other restricted access highways indicating where travelers can get a meal, spend the night or fill their tanks. Currently, there are logo signs at over 300 Virginia interchanges on I-64, I-66, I-77, I-81, I-85, I-95 and I-295 and restricted bypass routes. Over 4,200 logo business panels are installed, and more than 2,300 businesses participate. Virginia piloted this "logo" program in 1965.

VOPA continues to advocate for commercial locations under contract with this program to be accessible. VOPA submitted comments to proposed regulations governing the "logo" program, arguing that the Department of Transportation should require that all contracting companies be accessible. VOPA is monitoring whether the Department of Transportation accepts and implements the comments made by VOPA. If not, VOPA will consider and initiate other advocacy as necessary.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Law Enforcement Agencies Recognize the Rights of Persons with Disabilities**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II and III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Identify courthouses in Virginia that are inaccessible to persons with disabilities and take action to remediate.

**Collaborative Efforts:**

Disability Advocacy Groups

**Number of Cases Handled: 1**

**Case Summary:**

VOPA represented a woman who was denied access to a courthouse with her service animal. VOPA entered her case to argue for her to be permitted to be accompanied by her service animal for all her court proceedings. After VOPA submitted a brief and made oral argument, the Court ruled that she could be accompanied by her service animal.

VOPA is attempting to work with disability advocacy groups to identify inaccessible courthouses. This work will continue into FY06. All VOPA staff have been trained on

courthouse accessibility in preparation for this statewide campaign. Time was devoted during a “Continuing Legal Education (CLE)” training day agenda for this training.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Polling Places for People with Disabilities**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Through litigation or other advocacy, ensure that the Virginia Board of Elections conducts and completes surveys of polling places and takes such steps as are necessary to ensure that they are accessible to persons with disabilities.

Through litigation or other advocacy, eliminate barriers to voting by absentee ballot for persons with mental illness and other “non physical” disabilities.

**Collaborative Efforts:**

State Board of Elections

**Number of Cases Handled:** Not individual case level services

**Case Summary:**

VOPA continues to negotiate with State and Local Boards of Elections to resolve disputes over a site that has physical accessibility issues, and a site that did not have accessible equipment for voters with visual impairments in the 2004 election.

As a result of other advocacy by VOPA, the State Board of Elections has guaranteed that persons with “non physical” disabilities have access to absentee ballots. Virginia’s absentee voting statute seems to limit absentee ballots to people who are physically unable to access polling sites. VOPA advocated to make sure that people with developmental disabilities, mental illness or other “non-physical” disabilities have equal access to absentee ballots. After VOPA demanded that the Virginia Board of Elections clarify its position on this matter, it received a letter from the Chair of the Board of Elections guaranteeing that people with “non-physical” disabilities will have equal right to vote via absentee ballot. This effort was made using non-PAIR funding.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Inaccessible Sidewalks**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives**

Through litigation or other advocacy, ensure that the City of Richmond adopts and

enforces a policy to ensure that persons with disabilities have equal access to sidewalks after snowstorms.

**Collaborative Efforts:**

City of Richmond

**Number of Cases Handled: 1**

**Case Summary:**

VOPA received complaints that the City of Richmond plows snow in front of curb ramps and otherwise makes its sidewalks inaccessible. The City of Richmond has agreed to ensure that curb ramps are accessible after snowstorms and has created a public service announcement informing businesses of their obligation to ensure that sidewalks are cleared and accessible.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible**

**Focus Area: Service Animals in Public Accommodations**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Develop and distribute an informational brochure to taxi cab companies in metro Richmond, Northern Virginia and the Tidewater area, informing them of their obligation to provide service to persons with disabilities who use service animals.

Develop a fact sheet on the state and federal laws protecting the use of service animals by persons with disabilities and distribute to all callers requesting it.

Develop and implement a tester program to identify taxi cab companies that refuse to provide service to persons with disabilities who use service animals. Through litigation or other advocacy, change those practices.

Identify state or local government organizations that license taxi cab companies and, through litigation or other advocacy, ensure that they do not provide licenses to companies that discriminate against persons with disabilities who sue service animals.

**Collaborative Efforts:**

Department of Motor Vehicles

**Number of Cases Handled: 2**

**Case Summary:**

VOPA is developing a fact sheet on the rights of persons with disabilities to be accompanied by their service animals. VOPA has also successfully represented persons who were denied access to public accommodations with their service animals. In one

case (outside of priorities), VOPA entered into a settlement with a restaurant franchise that will ensure that service animals are permitted in all of their restaurants.

VOPA conducted sound research on best practices for implementing a “tester” program to ensure that taxi companies provide services for people who use service animals. VOPA has confirmed that state law requires as a condition of licensure that taxi companies comply with the ADA. The “tester” program implementation has not been pursued due to staff turnover. However, as VOPA receives complaints related to this, they are forwarded to the DMV for adjudication.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible**  
**Focus Area: Appropriate Services and Supports to Enable People to Move into the Community**

**Needs/Issues/Barriers Addressed**

This allows VOPA to advocate for adherence to the true intent of the Olmstead decision.

**Indicators for Success Include the Completion of the Following Objectives:**

Identify five (5) unlicensed care facilities for the aged that house persons with disabilities and provide VOPA information.

Investigate whether children with disabilities who are eligible for Virginia’s Early and Periodic Screening Diagnostic and Prevention (EPSDT) program are improperly placed in nursing homes or Intermediate Care Facilities for the Mentally Retarded (ICF/MRs) due to a failure by the Virginia Department of Medical Assistance Services (DMAS) to comply with state and federal Medicaid laws and regulations. If so, initiate litigation or other advocacy to change this practice.

Investigate whether DMAS fails to notify children eligible for Virginia’s EPSDT program of the existence of the program, in violation of state and federal Medicaid laws and regulations. If so, initiate litigation or other advocacy to change this practice.

Inform policy-makers of the requirements of the Americans with Disabilities Act’s Integration Mandate as set forth in the Olmstead decision, in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

Inform DMAS’ waiver task forces of the need to include consumer-directed services in all of Virginia’s waivers.

**Collaborative Efforts:**

Department of Medical Assistance Services

**Number of Cases Handled:** 0 with PAIR funding

**Case Summary:**

VOPA has represented several EPSDT eligible children who were at risk of nursing home or institutional placement due to the failure of the Department of Medical Assistance



Services (DMAS) to comply with state and federal law. VOPA advocated for a child to receive EPSDT services that had originally been denied. After VOPA entered into the case, DMAS agreed to provide services to the child. VOPA has monitored DMAS' compliance with the settlement agreement obtained by VOPA requiring DMAS to inform children of the existence of EPSDT services. By all accounts, DMAS has done so and provided training to its employees and agents on the existence and benefits of EPSDT.

VOPA is investigating whether DMAS is properly administering its Elderly or Disabled with Consumer Direction Waiver. VOPA has received complaints that DMAS has not enrolled enough Consumer Directed Service Facilitators to ensure that people receive services. In one case, a person located a service provider, but could not hire that person because there was no DMAS-enrolled Service Facilitator to provide training. VOPA also learned that there are many children in similar situations, unable to access services because DMAS has not enrolled Facilitators to train and assist the families. VOPA has spoken with several enrolled Facilitators who indicate that they will not provide services due to actions taken by DMAS. VOPA will continue to investigate and take such steps as are necessary to ensure that Medicaid Waiver individuals have access to Consumer Directed Services.

In two other cases, DMAS had improperly delayed finding children eligible for services, for a period of months, due to its failure to ensure that all paperwork was completed. In each case, DMAS, after being alerted by VOPA, corrected the problem and provided services to the children. DMAS indicated that it had identified several other children with similar problems and was taking steps to correct them.

VOPA has represented several people who were not provided with services with reasonable promptness. In several situations, DMAS improperly delayed approving services for Waiver recipients. After VOPA advocated for DMAS to respond to and approve Consumer Services Plans in compliance with their own regulations, VOPA learned that DMAS had begun doing so and had cleared its "backlog" of service requests. As VOPA learned from one Waiver Case Manager, DMAS had, after receiving VOPA's letters, responded to over twenty outstanding requests for services. In two particular cases, DMAS first delayed responding to a request for services, then denied the request. VOPA entered each case, demanded that DMAS approve the requests. VOPA stated that it would file appeals of DMAS' decisions if it did not approve the services. In each case, DMAS approved the services on the day VOPA set as its "deadline" for approving them.

VOPA submitted comments on the DMAS emergency regulations for the Individual and Family Developmental Disabilities Support (IFDDS or DD) Waiver. VOPA alerted DMAS of our disappointment that Virginia has not more aggressively pursued the Independence Plus Waiver nor the available funding to assist with transitioning from institutions. We also noted that we were disappointed that there was not a greater effort to enhance consumer directed services.

**Goal: People with Disabilities Have Equal Access to Appropriate and Necessary Health Care**

**Focus Area: Sign Language Interpreters in Medical Professional Offices**

**Needs/Issues/Barriers Addressed**

This allows VOPA to advocate for greater access to sign language interpreters in medical settings.

**Indicators for Success Include the Completion of the Following Objectives:**

Develop and distribute an informational brochure regarding the obligation of hospitals to provide qualified sign language interpreters to patients who need them, focusing on the need to ensure that the interpreters provided are qualified.

Represent five (5) persons who have been denied qualified sign language interpreters by medical professionals

Through litigation or other advocacy, ensure that the Department of Corrections provides qualified sign language interpreters for inmates who need them to benefit from medical and mental health services.

**Collaborative Efforts:**

Department of Corrections

**Number of Cases Handled: 5****Case Summary:**

VOPA is developing a brochure highlighting the obligation of medical providers to provide sign language interpreters to patients who need them.

VOPA has represented people who had complaints that doctors refused to provide them with sign language interpreters. VOPA continues to represent people who are deaf or hard of hearing who have been denied sign language interpreters by medical providers. In one case, VOPA filed a lawsuit in the United States District Court in Norfolk. The case was settled when the doctor agreed to provide sign language interpreters for VOPA's clients and for all other patients who need them. In another case, VOPA entered into a settlement agreement with a medical practice requiring all of its doctors to provide sign language interpreters to person who need them.

VOPA has entered into an agreement with the Department of Corrections requiring DOC to provide sign language interpreters for inmates who need them to communicate with medical and mental health providers. VOPA has monitored compliance with this agreement and found that DOC is providing interpreters for medical and mental health care.

In an effort to continuously increase VOPA's disability awareness/sensitivity and to address staff professional development, VOPA arranged for several employees to participate in introductory sign language classes. They were of no cost to the employees. Staff made a commitment to adhere to the class schedule and to balance their workloads in order to maintain consistent attendance. Staff were enthusiastic about the class and many practice these skills with each other.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Underserved Communities**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

By December 1, 2004, identify one geographic region of the state that has been traditionally underserved by VOPA.

By March 1, 2005, with the assistance of the VOPA Advisory Councils, develop an outreach program for the underserved region.

Implement outreach program by August 1, 2005.

In addition to fact sheets identified in above objectives, develop five (5) additional fact sheets for use with service requests that do not become fully opened cases

Evaluate newsletter mailing list to be certain that underserved populations are represented.

Distribute newsletter quarterly.

**Collaborative Efforts:**

VOPA Advisory Councils

McGuire Veterans Administration Medical Center

**Number of Cases Handled:** Not case level services

**Case Summary:**

VOPA identified the Eastern Shore, Northern Neck and the far Southwest Virginia as areas of Virginia where more outreach needs to occur to increase awareness of VOPA and the services it may provide. Prioritizing the Eastern Shore area, VOPA developed an outreach plan and has initiated it. The plan includes contacting disability related service providers in the Eastern Shore area to share information about VOPA.

VOPA has identified the topic areas for the five additional fact sheets. They include the five core areas in special education (eligibility, individualized educational plans, transition services and planning, behavioral safeguards and procedural safeguards) and interpreter resources in Virginia. Drafting, printing and distribution of the fact sheets will be continued into the new fiscal year.

The VOPA newsletter mailing list was reviewed and updated to better reflect inclusion of underserved populations. It has been updated to include more consumer and family representation. In addition, other advocacy entities have been added. The newsletter

mailing list is not a static work product; VOPA considers it to be an on-going project that will consistently be reviewed and updated to best reflect the disability communities in Virginia. The newsletter has been distributed as planned.

VOPA conducted quarterly trainings for the residents at the McGuire Veterans Administration Medical Center. In addition, annual staff training was provided that included information about patients rights related to self-determination, choice and informed consent. The Medical Center's staff comfort level with VOPA staff's presence has increased somewhat, but due to the conditions of the FY03 settlement agreement, VOPA can only provide the residents with quarterly trainings. See above regarding systemic work in this area.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: CAP Services at Independent Living Centers**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

Continue "Office Hours" program at Centers for Independent Living (CIL) and other service entities to provide information and referral services

**Collaborative Efforts:** Centers for Independent Living

**Number of Cases Handled:** Not applicable

**Case Summary:** Not applicable

This was inadvertently included as a PAIR priority.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Spanish Speaking Constituents**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

Complete two (2) presentations or outreach sessions between January 2005 and June 2005 for Spanish-speaking communities.

With the assistance of VOPA's Spanish Speaking Community Advisory Committee, develop a plan for outreach to targeted Spanish-speaking constituencies.

**Collaborative Efforts:** VOPA's Spanish Speaking Community Advisory Committee

**Number of Cases Handled:** Not case level services

**Case Summary:**

With the assistance of VOPA's Spanish-Speaking Outreach Committee, VOPA has been able to get a sense of the diverse needs of this community. The committee is comprised of VOPA staff, representatives of the Disability Advisory Council and PAIMI Council, and community and political leaders representing the Spanish-speaking community in the Commonwealth. We have identified that there is a need to educate this community about disability rights in special education, state and community facilities, accessibility to medical services (lack of interpreters), and opportunities for self-advocacy. The committee is working with the Richmond, Henrico, and Chesterfield, Virginia, Coalitions and the Richmond Hispanic Liaison Office to eliminate cultural and linguistic barriers so that general education can take place about VOPA and determine where VOPA should target its advocacy efforts.

VOPA has begun the general education process by meeting with the Limited English Speaking Program in Richmond to discuss VOPA's mission and services VOPA has also met with the Governor's Latino Advisory Commission Liaison to discuss the findings of the Latino Advisory Commission's report on the needs of the Latino community in Virginia. VOPA made a radio appearance for WRIR (97.3 FM), a newly created independent radio station in Richmond which provides many public interest shows targeted at the Spanish-speaking community in Richmond.

The Spanish Speaking Outreach Committee and VOPA have developed relationships with the Governor's Office, the VA Hispanic Liaison Office, the Richmond, Henrico, and Chesterfield Coalitions to provide information about disability rights in education, abuse and neglect, and discrimination. VOPA is translating brochures into Spanish so that our Spanish-speaking consumers will be able to access this information and share it within their communities. We have participated in community days, outreach events, and meetings in each Metro Richmond area to introduce VOPA to service providers and advocates. This year, the Committee decided to focus on identifying interpreters for parents in the City of Richmond and the counties of Chesterfield, Henrico, and Hanover so that effective communication could be facilitated between parents and educators. VOPA explored the number of Spanish-speaking residents and patients at state-operated Mental health institutions who may not be receiving appropriate care due to language barriers. VOPA is compiling data to share with the Committee.

VOPA conducted a "Continuing Legal Education Day" for VOPA attorneys that all staff were encouraged to attend. Many staff at all levels of the agency participated in a session entitled "Public Benefits and Immigration Status" presented by a representative of the Virginia Poverty Law Program. As VOPA presses forward with outreach to this population, we are being mindful of the sensitivities of the population's legal status and aware of the need to learn more about their cultures.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Adult Care Homes (Assisted Living Facilities)**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

Inform policy-makers of the need to eliminate abuse and neglect in, and for improved oversight of, assisted living facilities and adult care homes, in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

Based on information learned in monitoring activities above, develop one fact sheet for residents of assisted living facilities.

**Collaborative Efforts:**

Department of Social Services

Board of Nursing

**Number of Cases Handled:** Not case level services

**Case Summary:**

Development and distribution of one (1) fact sheet about disability-related rights for these residents will be carried over into the new fiscal year.

See above regarding systemic work in this area.

**OTHER**

VOPA has also served an additional 27 cases using PAIR funding that were not included in these priorities. Some of these are cases that have been carried over from previous years and the priorities were changed.

**B. Priorities and Objectives for the Current Fiscal Year:**

It should be noted that VOPA plans its programs based on the needs within the state; not by funding stream or specific disabilities. Some of the identified estimated cases may be addressed in conjunction with other funding streams, but the result will still be a positive impact on PAIR eligible individuals.

**Goal: People with Disabilities are Free from Abuse and Neglect**

**Focus Area: Abuse or Neglect in Community Settings**

**Needs/Issues/Barriers Addressed**

Individuals with disabilities living in the community are being subjected to abuse and neglect.

**Indicators for Success Include the Completion of the Following Objectives:**

Identify possible abuse and neglect by reviewing all reports of abuse, neglect or exploitation forwarded to VOPA by Adult Protective Services.

Prepare quarterly summaries of reports about facilities not covered by the Critical Incident Reporting statute, using licensing inspections, investigations, complaints of abuse or

neglect, APS reports, and other relevant information to identify patterns of abuse or neglect.

Establish whether full investigation is warranted, where there is an allegation of abuse or neglect as identified in patterns above.

Investigate six (6) allegations of abuse or neglect from Adult Protective Services reports, selecting one report from each of the six (6) APS Regions containing allegation in patterns above, and obtain corrective action as appropriate.

Investigate four (4) additional allegations of abuse or neglect in licensed community residential settings, particularly concerning inappropriate medication, safety, and inappropriate use of seclusion or restraints, and obtain corrective action as appropriate.

Represent consumer choice, independence, and community integration for people with disabilities on the DMHMRSAS Human Rights, Mental Health Planning Council (MHPC), and ALF regulation workgroups.

Increase Adult Protection Services referrals to VOPA of allegations of abuse or neglect through development of consistent and uniform reporting tools.

Identify medication practices and staff training by monitoring five (5) assisted living facilities.

Inform policy-makers of the need to eliminate abuse and neglect in community settings in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

Inform relevant policy-makers of the need to improve requirements for community providers to report abuse or neglect.

Represent the interests of persons with disabilities on the Guardianship Advisory Board of the Department for the Aging in an effort to promote alternatives to guardianship, consumer self-direction, and improved protections for persons with disabilities in substitute decision-making proceedings.

Inform policy-makers of the need for consumer self-direction and protection for persons with disabilities in substitute decision-making proceedings in response to all relevant legislative proposals, proposed administrative regulations, and organizational policies.

Collaborate with Virginia's Long-Term Care Ombudsmen through quarterly meetings.

**Goal: People with Disabilities are Free from Abuse and Neglect**

**Focus Area: Abuse or Neglect in Institutional Settings**

**Needs/Issues/Barriers Addressed**

Individuals with disabilities living in institutional settings are being subjected to abuse and

neglect.

**Indicators for Success Include the Completion of the Following Objective:**

Investigate ten (10) incidents of abuse or neglect in state operated institutions or nursing homes, focused on misuse of seclusion or restraint, failure to obtain informed consent, or staff on resident assault, and obtain corrective actions as appropriate.

**Goal: Children with Disabilities Receive an Appropriate Education**

**Focus Area: Children Who Have Been (or Are at Risk of Being) Suspended or Expelled due to Inadequate Behavioral Intervention Plans (BIPs) or Functional Behavioral Assessments (FBAs)**

**Needs/Issues/Barriers Addressed**

VOPA has been advised that children with disabilities are being inappropriately subjected to suspension or expulsion when BIPS or FBAs are either not provided or are inappropriate.

**Indicators for Success Include the Completion of the Following Objectives:**

Represent ten (10) children who have been suspended or who are at risk of being suspended due to inadequate functional behavioral assessments or behavioral intervention plans.

Litigate or advocate to obtain compliance by schools and the Virginia Department of Education with requirements to provide independent education evaluations free of charge when parent disagrees with functional behavioral assessments.

Post Suspension/Expulsion brochure to the web and send to local Special Education Advisory Councils, Parent Resource Centers, the VDOE Ombudsman, and parent organizations.

**Goal: Children with Disabilities Receive an Appropriate Education**

**Focus Area: Technical Assistance to Private Bar, Legal Services Agencies, and Parent Advocacy Groups Regarding Changes in the Individuals with Disabilities Education Act 2004 (IDEA)**

**Needs/Issues/Barriers Addressed**

These entities are critical resources for families of and children with disabilities attending school. They must be kept current with the most recent policy development in order to be able to provide effective advocacy.

**Indicators for Success Include the Completion of the Following Objectives:**

Inform private attorneys, parents, advocates and providers regarding IDEA 2004 through technical assistance to five (5) individuals.

Inform private attorneys, parents, and advocates of new special education regulations and IDEA 2004 through three (3) trainings to 30 individuals.



Inform local bar associations, legal aid societies, and parent organizations of the rights of children with disabilities through the distribution of 100 copies of VOPA's summary of IDEA 2004.

Coordinate with three (3) private attorneys to provide legal representation for children with disabilities.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Services and Supports to Enable Individuals to Move Into the Community**

**Needs/Issues/Barriers Addressed:**

This allows VOPA to advocate for adherence to the true intent of the Olmstead decision.

**Indicators for Success Include the Completion of the Following Objectives:**

Represent five (5) individuals who were improperly placed in nursing homes or at risk of improper placement due to a failure by the Department of Medical Assistance Service to provide them with services under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program or the Elderly or Disabled with Consumer Direction (EDCD) Waiver.

Inform policy-makers of the need for increased accessible, affordable housing for people with disabilities in Virginia.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Inaccessibility of Commercial Locations under Contract with the State**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II and Title III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Litigate against the Lottery to obtain compliance with the requirement that the State not contract with private businesses that discriminate against people with disabilities.

Litigate or advocate to obtain compliance by the Department of Transportation with the requirement that the State does not contract with private businesses that discriminate against people with disabilities in its Logo Program.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Completion of Ongoing Work**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Complete accessibility surveys of 25 courthouses. Inform responsible officials of accessibility requirements and deficiencies and advocate for corrections.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible**

**Focus Area: Service Animals In Public Accommodations**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Represent five (5) people who have been denied access to public accommodations due to their use of a service animal.

Send service animal brochure to (3) taxi companies.

Implement testing program of taxi services to determine whether taxi companies deny rides to people who use service animals. If so, obtain corrective actions as appropriate.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible**

**Focus Area: Inaccessibility of Retail Settings**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Identify a “downtown” or other defined area in Virginia and survey the businesses located in that area to determine if they are accessible to people with disabilities. Inform all businesses that are not accessible of the requirements of the law and provide technical assistance to encourage them to become accessible. If businesses refuse to become accessible, litigate to compel compliance with state and federal laws requiring accessibility.

**Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care**

**Focus Area: Medicaid Appeals for Waiver and EPSDT Issues**

**Needs/Issues/Barriers Addressed**

VOPA learned that the Appeals Process with the Department of Medical Assistance Service is difficult for Medicaid recipients to navigate and benefit from. This allows VOPA to address this on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Determine whether the Department of Medical Assistance Services, on a system-wide basis, provides appellants with a fair, impartial appeal process that protects due process

rights. If not, obtain corrective action as appropriate.

Represent consumer choice, independence, and community integration at Medicaid Waiver Network meetings.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Underserved Communities**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

Send 25 copies of sign language brochure to medical offices.

By December 1, 2005, identify two (2) additional underserved areas in the far Southwest Virginia.

Develop plan for outreach to these areas by February 1, 2006.

Implement outreach activities beginning March 1, 2006.

By April 30, 2006, develop a plan for increasing cultural, geographical, and disability diversity on VOPA's Board of Directors and Advisory Councils.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Client Assistance Program (CAP) at Centers for Independent Living**

VOPA will increase its visibility in the disability communities.

**Needs/Issues/Barriers Addressed**

**Indicators for Success Include the Completion of the Following Objectives:**

Continue "Office Hours" program at Centers for Independent Living and other advocacy organizations. One (1) "Office Hour" at each CIL will focus on VOPA's Client Assistance Program.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Outreach to Constituents of the Eastern Shore**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities in the Eastern Shore area of Virginia.

**Indicators for Success Include the Completion of the Following Objectives:**

Develop and implement a plan for outreach to residents of the Eastern Shore using contacts with area service providers (CILs, DRS Offices, health departments, DSS, hospitals, CSBs and local advocacy organizations).

By April 1, 2006, evaluate and refine the Eastern Shore outreach plan.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Spanish-speaking Constituents**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities with Spanish speaking residents.

**Indicators for Success Include the Completion of the Following Objectives:**

Develop outreach to Spanish-speaking communities in two (2) additional areas with the assistance of the Spanish-speaking Advisory Committee.

Inform Spanish-speaking constituents of their rights by translating all publications into Spanish and distributing a list of translated materials to ten (10) contact organizations.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Special Education for Children in Foster Care**

**Needs/Issues/Barriers Addressed**

Children in foster care settings seem to represent a higher proportion of special education students than children not in foster care settings.

**Indicators for Success Include the Completion of the Following Objectives:**

Obtain advice from the VOPA Disabilities Advisory Council (DAC) about outreach opportunities and linkages to organizations interested in foster care and about any specific publications developed for this outreach effort.

Develop a training program regarding the special education rights of foster children with disabilities and present to 30 foster parents, advocates, and employees of the Department of Social Services in three (3) trainings.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Discharge Rights in Nursing Homes**

**Needs/Issues/Barriers Addressed**

VOPA has been advised that nursing home residents, family members, providers and policy makers are unclear about disability rights related to discharge from nursing homes.

**Indicators for Success Include the Completion of the Following Objectives:**

Inform consumers, family members, providers and policy-makers about the discharge planning rights of people with disabilities living in nursing homes by developing a brochure and sending to 100 individuals.

Contract with private businesses that discriminate against people with disabilities.

Litigate or advocate to obtain compliance by the Department of Transportation with the requirement that the State does not contract with private businesses that discriminate against people with disabilities in its Logo Program.

**Goal: People with Disabilities have Equal Access to Government Services**

**Focus Area: Completion of Ongoing Work**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title II of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Complete accessibility surveys of 25 courthouses. Inform responsible officials of accessibility requirements and deficiencies and advocate for corrections.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible**

**Focus Area: Service Animals in Public Accommodations**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Represent five (5) people who have been denied access to public accommodations due to their use of a service animal.

Send service animal brochure to (3) taxi companies.

Implement testing program of taxi services to determine whether taxi companies deny rides to people who use service animals. If so, obtain corrective actions as appropriate.

**Goal: People with Disabilities Live in the Most Integrated Environment Possible**

**Focus Area: Inaccessibility of Retail Settings**

**Needs/Issues/Barriers Addressed**

This allows VOPA to enforce Title III of the Americans with Disabilities Act on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Identify a "downtown" or other defined area in Virginia and survey the businesses located in that area to determine if they are accessible to people with disabilities. Inform all

businesses that are not accessible of the requirements of the law and provide technical assistance to encourage them to become accessible. If businesses refuse to become accessible, litigate to compel compliance with state and federal laws requiring accessibility.

**Goal: People with Disabilities have Equal Access to Appropriate and Necessary Health Care**

**Focus Area: Medicaid Appeals for Waiver and EPSDT Issues**

**Needs/Issues/Barriers Addressed**

VOPA learned that the Appeals Process with the Department of Medical Assistance Service is difficult for Medicaid recipients to navigate and benefit from. This allows VOPA to address this on a systemic basis.

**Indicators for Success Include the Completion of the Following Objectives:**

Determine whether the Department of Medical Assistance Services, on a system-wide basis, provides appellants with a fair, impartial appeal process that protects due process rights. If not, obtain corrective action as appropriate.

Represent consumer choice, independence, and community integration at Medicaid Waiver Network meetings.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Underserved Communities**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities.

**Indicators for Success Include the Completion of the Following Objectives:**

Send 25 copies of sign language brochure to medical offices.

By December 1, 2005, identify two (2) additional underserved areas in the far Southwest Virginia.

Develop plan for outreach to these areas by February 1, 2006.

Implement outreach activities beginning March 1, 2006.

By April 30, 2006, develop a plan for increasing cultural, geographical, and disability diversity on VOPA's Board of Directors and Advisory Councils.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Client Assistance Program (CAP) at Centers for Independent Living**

VOPA will increase its visibility in the disability communities.

**Needs/Issues/Barriers Addressed****Indicators for Success Include the Completion of the Following Objectives:**

Continue "Office Hours" program at Centers for Independent Living and other advocacy organizations. One (1) "Office Hour" at each CIL will focus on VOPA's Client Assistance Program.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Outreach to Constituents of the Eastern Shore**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities in the Eastern Shore area of Virginia.

**Indicators for Success Include the Completion of the Following Objectives:**

Develop and implement a plan for outreach to residents of the Eastern Shore using contacts with area service providers (CILs, DRS Offices, health departments, DSS, hospitals, CSBs and local advocacy organizations).

By April 1, 2006, evaluate and refine the Eastern Shore outreach plan.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Spanish-speaking Constituents**

**Needs/Issues/Barriers Addressed**

VOPA will increase its visibility in the disability communities with Spanish speaking residents.

**Indicators for Success Include the Completion of the Following Objectives:**

Develop outreach to Spanish-speaking communities in two (2) additional areas with the assistance of the Spanish-speaking Advisory Committee.

Inform Spanish-speaking constituents of their rights by translating all publications into Spanish and distributing a list of translated materials to ten (10) contact organizations.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Special Education for Children in Foster Care**

**Needs/Issues/Barriers Addressed**

Children in foster care settings seem to represent a higher proportion of special education students than children not in foster care settings.

**Indicators for Success Include the Completion of the Following Objectives:**

Obtain advice from the VOPA Disabilities Advisory Council (DAC) about outreach opportunities and linkages to organizations interested in foster care and about any specific publications developed for this outreach effort.

Develop a training program regarding the special education rights of foster children with disabilities and present to 30 foster parents, advocates, and employees of the Department of Social Services in three (3) trainings.

**Goal: People with Disabilities in the Commonwealth of Virginia are Aware of VOPA's Services**

**Focus Area: Discharge Rights in Nursing Homes**

**Needs/Issues/Barriers Addressed**

VOPA has been advised that nursing home residents, family members, providers and policy makers are unclear about disability rights related to discharge from nursing homes.

**Indicators for Success Include the Completion of the Following Objectives:**

Inform consumers, family members, providers and policy-makers about the discharge planning rights of people with disabilities living in nursing homes by developing a brochure and sending to 100 individuals.

**PART VI. NARRATIVE:**

**A. Sources of funds received and expended:**

Source of Funding	Amount Received	Amount Spent
Federal (section 509)	\$350,069	\$243,603
State	0	0
Program income	0	0
Private	0	0
All other funds	333,428 ( '04 PAIR carryover)	0
Total (from all sources)	\$683,497	\$243,603

The "all other" category above is broad. It includes funds from local governments, earned income (i.e., legal fees), charitable contributions, and other grants or contracts. This category does not include in-kind donations. However, it is hoped that PAIRs will collect this information separately if appropriate.

**B. Budget for the fiscal year covered by the report:**

Category	Prior Fiscal Year	Current Fiscal Year
Wages/salaries	133,196	196,808



Fringe benefits (FICA, unemployment, etc.)	48,424	66,506
Materials/supplies	1,181	1,727
Postage	0	770
Telephone	4,021	7,290
Rent	2,257	1,469
Travel	9,220	10,089
Copying	101	1,090
Equipment (rental/purchase)	1,941	2,214
Temporary Personnel Services	8,696	9,369
Indirect costs	25,256	42,130
Miscellaneous	9,310	34,632
Total Budget	243,603	374,094

**C. Description of PAIR staff:**

Type of Position	FTE	% of year filled	Person-years
Professional			
Full-time	2.65	95	18.99
Part-time	0	0	0
Vacant	0	0	0
Clerical			
Full-time	.52	88	5.25
Part-time	0	0	0
Vacant	0	0	0

NOTE: All figures are based on a State fiscal year (July 1, 2004-June 30, 2005)

**D. Involvement with advisory boards:**

1) VOPA has two Advisory Councils known as the Disabilities Advisory Council (DAC) and The Protection and Advocacy for Individuals with Mental Illnesses (PAIMI) Advisory Council. The Councils' primary responsibility is to advise the protection and advocacy system on policies and priorities to be carried out in protecting individuals with disabilities. This function helps VOPA to identify underserved and unserved Virginians.

2) VOPA has developed a Spanish Speaking Outreach Committee. With the assistance of VOPA's Spanish-speaking Outreach Committee, VOPA has been able to get a sense of the

diverse needs of this community. The committee is comprised of VOPA staff, representatives of the Disability Advisory Council and PAIMI Council, and community and political leaders representing the Spanish-speaking community in the Commonwealth.

3) VOPA participates in the Virginia Department of Education State Special Education Advisory Committee. This committee is required by the federal government as a first step in federal Continuous Improvement Monitoring Process. Discussions have included Personnel Licensure Issues, completion and submission of the Federal Annual Performance Report, IDEA Reauthorization, State Assessment Update and a State Improvement Grant.

4) VOPA serves on the State Rehabilitation Council. The State Rehabilitation Council provides advice to the Department of Rehabilitative Services regarding vocational services provided pursuant to Title I and Title VI of the Federal Rehabilitation Act. Membership and duties are constructed according to federal provisions.

5) As noted previously VOPA also participates in the Public Guardianship Advisory Board.

**E. Grievances filed:** The Act requires that PAIR establish a grievance procedure to handle any complaints by clients regarding the services received/not received from PAIR. Provide a description of the issues involved in any grievances filed against PAIR during the fiscal year covered by this report. Explain why the individual filed the grievance and describe the outcome of the grievance process for each complaint. You should not include personally identifying information regarding the individual served.

VOPA received three (3) grievances related to PAIR services. Two of them were related to VOPA's decision to close their cases and the third was related to program eligibility.

One of the case closing grievances was reviewed and the staff decision to close the case was upheld by the Executive Director. The individual then appealed to the Governing Board who upheld the Executive Director's decision.

The other two grievances are still in process.

**F. Coordination with the CAP and the State long-term care program:** In some States, the CAP and the State's long-term care programs are not part of the designated P&A agency, which administers the PAIR program. However, the Act mandates that PAIR coordinate its activities with the CAP and the long-term care programs. If the CAP and/or the long-term care program is not a part of your P&A, describe how PAIR coordinates its activities with those entities.

CAP is part of VOPA.

Coordination with the State Long-Term Care Program (Virginia Department of Aging) occurs on an as needed basis. However, VOPA does attend and participate in their Virginia Public Guardian and Conservator Advisory Board.

The Department of Medical Assistance Services (DMAS) is the primary source of funding for the long-term care system in Virginia. Again, VOPA coordinates with them on an as needed basis. Specific activities in the past year have included participation in the Medicaid Buy-In

Workgroup.

It should be noted that VOPA plans its programs based on the needs within the state; not by funding stream or specific disabilities. Some of the identified estimated cases may be addressed in conjunction with other funding streams, but the result will still be a positive impact on PAIR eligible individuals.

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Within 90 days after the end of the fiscal year covered by this report, mail one copy of this report to the RSA Regional Office and one copy to the RSA Central Office specified in the instructions.

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Signature of agency official

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Date